



**Office of Acquisition and Grants Management**

---

**JUSTIFICATION AND APPROVAL**  
**Justification for Other than Full and Open Competition**

**1. IDENTIFICATION OF THE AGENCY AND CONTRACTING ACTIVITY**

- a. Federal Agency and Contracting Activity:** Department of Health & Human Services (HHS), Centers for Medicare & Medicaid Services (CMS), Office of Acquisition and Grants Management (OAGM)
- b. Sponsoring Organization:** Office of Financial Management (OFM), Accounting Management Group (AMG) and Financial Management Systems Group (FMSG)
- c. Project Officer Information:** Maureen Hoppa, CMS/OFM/FMSG, 7500 Security Blvd., Mailstop C3-20-11, Baltimore, MD 21244

**2. NATURE AND/OR DESCRIPTION OF THE ACTION BEING APPROVED**

- a. Acquisition Purpose and Objectives:** The purpose of this justification is to obtain approval to issue a contract for urgently needed financial management services in support of CMS' administration and oversight of the financial activities and functions of the Health Insurance Marketplace (also known as Affordable Insurance Exchanges and herein referred to as the "Marketplace"). Contractor-provided financial management services are critical to CMS' successful implementation and operation of the Marketplace, which is open for consumer application and enrollment starting October 1, 2013 and will become fully operational on January 1, 2014.

This contract action is an interim, transitory solution to meet the Agency's immediate and urgent need for financial management services in support of implementing the Marketplace. CMS' objective is to issue a solicitation for operational financial management services that promotes and provides for full and open competition and to award a resulting contract no later than July 2014.

**Project Background:** On March 23, 2010, President Obama signed the Patient Protection and Affordable Care Act of 2010 (Public Law 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), referred to collectively as the Affordable Care Act, providing better health security to millions of Americans. The law sets in motion a range of comprehensive health insurance reforms that hold insurance companies accountable, guarantee more choice, enhance the quality of care for all Americans, and reduce health costs through improvements. Specific to this justification and request for approval, the Affordable Care Act effected the establishment of the Marketplace.

A Marketplace, which may be operated as a State-Based Marketplace (SBM), a State Partnership Marketplace (SPM), or Federally-Facilitated Marketplace (FFM), will provide competitive marketplaces for individuals and small employers to directly compare available private health insurance options on the basis of price, quality, and other factors. The Marketplace will help enhance competition in the health insurance market, improve choice of affordable health insurance, and give small businesses the same purchasing clout as large businesses.

The main functions of a Marketplace, as identified in the Affordable Care Act, include: plan management, eligibility and enrollment (determinations for eligible consumers), financial management, consumer assistance and oversight of issuers.

A number of regulations implementing the Affordable Care Act have been published since the enactment of the law including:

*The Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans [CMS-9989-F]* for implementing Health Insurance Marketplace standards was published on March 27, 2012, and can be found at <http://www.regulations.gov/#!documentDetail;D=HHS-OS-2011-0020-2420>.

*The Patient Protection and Affordable Care Act; Standards Related to Reinsurance, Risk Corridors and Risk Adjustment [CMS-9975-F]* for the various financial management programs was published on March 23, 2012, and can be found at <http://www.regulations.gov/#!documentDetail;D=HHS-OS-2011-0022-0692>.

### **3. DESCRIPTION OF SUPPLIES OR SERVICES REQUIRED TO MEET THE AGENCY'S NEEDS**

- a. **Project Title:** Financial Management Services Support For Marketplace Financial Activities
- b. **Project Description:** The contractor shall provide financial management, accounting and reporting services in support of CMS' administration and oversight of the Marketplace financial activities and functions using CMS' accounting system, the Healthcare Integrated General Ledger Accounting System (HIGLAS) to include: accounting, printing and mailing, tracking of accounts receivable and accounts payable, documenting funds collected by CMS, data validation, activity reporting, debt management functions, application of receipts to appropriate transactions, referral of debt to the Department of the Treasury (Treasury), specified batch payment functions in HIGLAS, and systems interface testing and support for HIGLAS functionality.
- c. **Requirement Type:** Support Services (non-research & development)
- d. **Type of Action:** New Requirement
- e. **Proposed Contract Type:** Cost-plus-fixed-fee



f. **Acquisition Identification Number:** CMS Requisition Number OFM-393-2013-0617

g. **Total Estimated Dollar Value and Performance/Delivery Period:** The total period of performance, not to exceed twelve months, is estimated not to exceed \$11,636,927.

4. **IDENTIFICATION OF THE STATUTORY AUTHORITY PERMITTING OTHER THAN FULL AND COMPETITIVE**

This acquisition is conducted under the authority of 41 United States Code (U.S.C.) 253(c)(2) as set forth in Federal Acquisition Regulation (FAR) 6.302-2, Unusual and Compelling Urgency. FAR 6.302-2 permits the Agency to limit the number of sources which it solicits bids or proposals when the Agency's need for the supplies or services is of such an unusual and compelling urgency that the Government would be seriously injured, financial or other.

5. **DEMONSTRATION THAT THE PROPOSED CONTRACTOR'S UNIQUE QUALIFICATIONS OR THE NATURE OF THE ACQUISITION REQUIRES USE OF THE AUTHORITY CITED**

a. **Name and Address of the Proposed Contractor:** Novitas Solutions, Inc. (Novitas), 1800 Center Street, Camp Hill, PA 17089

b. **Nature of the Acquisition and Proposed Unique Qualifications of the Contractor:**  
Since enactment of the Affordable Care Act and establishment of the new Marketplace, CMS has been actively developing and refining new and existing procedures and requirements to ensure the successful implementation and operation of the new, complex Marketplace. Throughout every phase of implementing such a large and dynamic program of a kind that has never been done before and as requirements and procedures are being developed and are emerging, CMS continues to learn, evolve and gain insight. As the deadline for implementing the new Marketplace nears, the Agency has been assessing and testing its plan and solution for implementing the new Marketplace.

With every unknown and variable encountered, CMS has been leveraging resources and changing, refining and retesting its solution, to not only ensure that the Marketplace is operational on January 1, 2014, but to ensure that this vital part of the Affordable Care Act is operating effectively and efficiently with as little complication as possible. CMS has recently learned that specialized financial management services and expertise are needed beyond what was initially anticipated and beyond CMS' currently available resources. Specifically, CMS needs a contractor with expertise and familiarity with CMS' infrastructure, financial management procedures (i.e. reporting and debt referral and collection) and experience navigating HIGLAS to assist CMS in the final development and testing phase of the Marketplace's financial activities before implementation on January 1, 2014, and to provide continued financial management services and support during the operations phase.



With the impending and mandated October 1, 2013 Marketplace enrollment and January 1, 2014 go-live deadlines nearing, CMS' need for contractor-provided financial management services has reached an unusual and compelling level of urgency. The prospect of a delay in implementing the Marketplace by the operational date of January 1, 2014, even for a few days, would result in severe consequences, financial and other. The effect of those consequences would most importantly be measured by the impact to the estimated millions of Americans and small businesses that have no health care today or access to affordable health care. Furthermore, if payments are not made and debts are not collected, with critical consideration given to timeliness, accuracy and integrity, the Agency's implementation and operation of the Marketplace and the Affordable Care Act will certainly be jeopardized.

In addition to the urgent and compelling nature of this requirement and the potential for financial and other harm to the Government if the Marketplace is delayed, regrettably CMS does not have enough time to conduct a full and open or limited competition. Acquiring contractor financial services to assist CMS in developing and testing its Marketplace financial activity implementation solution is already minimally two months overdue; therefore, the contractor will be working under an accelerated and fast-tracked schedule. Given the unusual and compelling urgency and until such time that a full and open competition is conducted, CMS conducted a two-step analysis to identify a contractor that (1) can immediately begin performing the services with a minimal learning curve and current access to and familiarity with CMS' infrastructure, to include HIGLAS and DCS (CMS' debt referral system) and (2) has excellent past performance in the area of financial management.

Step one of CMS' analysis was to identify potential sources with the experience, past performance, capability, and most imperatively, current access and a comprehensive understanding of CMS' existing systems and infrastructure. CMS' analysis of potential sources concluded that current Medicare Administrative Contractors (MAC) are the most compelling of available, capable and responsible sources to provide immediate financial management services with the lowest risk to the Government and the Marketplace. Specifically, MACs have complex, all-encompassing and unique experience and past performance with the following critical and essential Government and Agency-specific functions required for immediate and successful Marketplace implementation: (1) HIGLAS operations and interfaces (i.e. DCS), (2) financial management reporting procedures, standards and certifications, (3) security requirements and (4) debt collection and referral requirements. Collectively, these four identified unique experiences and capabilities are essential to the immediate successful implementation of the Marketplace by January 1, 2014 and continued performance of the operational work.

Step two of CMS' analysis was to identify a single MAC with excellent past performance in the area of financial management. CMS' analysis focused on identifying a contractor that presented the lowest risk to implementing and operating the Marketplace with the highest assurance of the integrity of the program and safeguarding of program funds.

Of the potential MAC sources reviewed, Novitas emerged as a low-risk MAC capable of providing immediate financial management services in support of the successful implementation and operation of the Marketplace.

6. **DESCRIPTION OF THE EFFORTS MADE TO ENSURE THAT OFFERS ARE SOLICITED FROM AS MANY POTENTIAL SOURCES AS PRACTICABLE**

CMS' analysis of potential sources concluded that two or more responsible sources are capable of performing the operational work requirements. Until such time that CMS can award a contract resulting from a full and open competition, this contract action is a temporary solution for the procurement of unusually urgent and necessary financial management services to ensure the successful implementation and operation of the Marketplace.

7. **DETERMINATION BY THE CONTRACTING OFFICER THAT THE ANTICIPATED COST/PRICE TO THE GOVERNMENT WILL BE FAIR AND REASONABLE**

The Contracting Officer's objective is to negotiate a fair and reasonable final price for the services being acquired. The Contracting Officer will conduct price, cost and realism analyses as applicable, using the negotiation techniques and proposal evaluation methodologies provided for in FAR Subpart 15.4, Contract Pricing.

8. **DESCRIPTION OF THE MARKET RESEARCH CONDUCTED (see FAR Part 10) AND THE RESULTS, OR A STATEMENT OF THE REASONS MARKET RESEARCH WAS NOT CONDUCTED**

Please refer to 5(b).

9. **ANY OTHER FACTS SUPPORTING THE USE OF OTHER THAN FULL AND OPEN COMPETITION**

Please refer to 5(b).

10. **LISTING OF SOURCES, IF ANY, THAT EXPRESSED, IN WRITING, AN INTEREST IN THE ACQUISITION**

Please refer to 5(b).

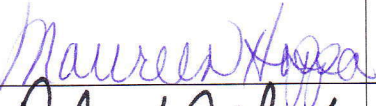
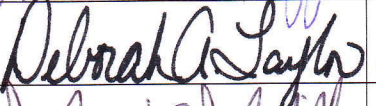
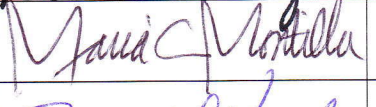
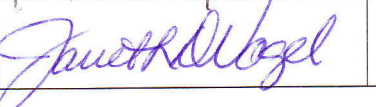


**11. STATEMENT OF THE ACTIONS, IF ANY, THE AGENCY MAY TAKE TO REMOVE OR OVERCOME ANY BARRIERS TO COMPETITION BEFORE ANY SUBSEQUENT ACQUISITION FOR THE REQUIRED SUPPLIES OR SERVICES**

This contract action is a temporary solution to obtain immediate and urgent financial management services required to successfully implement the Marketplace and the Affordable Care Act. CMS' OFM and OAGM are currently enhancing the Acquisition Plan to solicit well-defined, operational financial services work requirements with the objective of promoting and providing for full and open competition (two or more responsible sources). As such, this contract action and impending solicitation for full and open competition will be structured in such a manner to easily transition the competed operational work to the successful offeror with minimal risk and cost to the Government.


**12. PROGRAM OFFICE CERTIFICATION**

This is to certify that the portions of this justification that have been developed by the undersigned program office personnel, including supporting information and/or data verifying the Government's minimum needs, schedule requirements and other rationale for other than full and open competition, are accurate and complete.

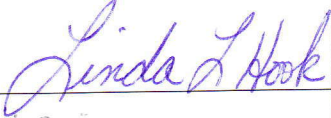
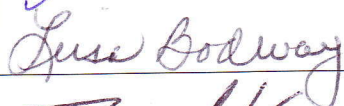

Official	Name & Title	Signature	Date
Contracting Officer's Representative, OFM, FMSG	Maureen Hoppa		Aug 8, 2013
Director and Chief Financial Officer, OFM	Deborah A. Taylor		08/08/2013
Director and Deputy Chief Financial Officer, OFM, AMG	Maria C. Montilla		08/08/2013
Director, OFM, FMSG	Janet Vogel		8/8/2013

### 13. CONTRACTING OFFICER CERTIFICATION

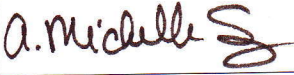
This is to certify that the justification for the proposed acquisition has been reviewed and that to the best of my knowledge and belief, the information and/or data provided to support the rationale and recommendation for approval is accurate and complete.

Official	Name & Title	Signature	Date
Contracting Officer	Bridget Rineker		8-8-2013

### 14. CHIEF OF THE CONTRACTING OFFICE AND HEAD OF THE CONTRACTING ACTIVITY

Official	Name & Title	Signature	Date
Director, OAGM, Medicare Administrative Contracts Group	Linda L. Hook		8/8/2013
Director, OAGM, Division of Policy, Workforce & Systems	for Famane Brown		8/12/2013
Director, OAGM	Daniel F. Kane		8/19/2013

### 15. COMPETITION ADVOCATE SIGNATURE

Official	Name & Title	Signature	Date
Chief Operating Officer, CMS	A. Michelle Snyder		8/21/2013